

**BOARD OF APPEALS OF BALTIMORE COUNTY**  
**MINUTES OF DELIBERATION**

**IN THE MATTER OF:** Friends of Lubavitch, Inc. – Legal Owners 16-308-SPH  
David Zoll, et al. - Petitioners

**DATE:** March 23, 2017

**BOARD/PANEL:** James H. West, Panel Chairman  
Meryl W. Rosen  
Joseph L. Evans

**RECORDED BY:** Sunny Cannington/Administrator

**PURPOSE:** To deliberate the following:

Petition for Special Hearing to determine:

- (1) What the use of the property is under the BCZR; and
- (2) Whether the current use of the property constitutes a violation or noncompliance with the zoning regulations for (a) failure to obtain a change of occupancy permit to change the “use” of a residential dwelling to a church, other building for religious worship, other religious institution or some other use as provided in BCZR § 500.4 and BCBC §113.4; and (b) failure to obtain variances for building setback and parking requirements as provided in BCZR §§ 101, 102.1, 1B01.1.A.3, 1B01.1.B.1.b(1), 1B01.1.B.1.d(1), 1B01.2.C.1.a, 407 and 409; and
- (3) Any other matters deemed necessary to bring the current use into compliance with County rules and regulations.

**PANEL MEMBERS DISCUSSED THE FOLLOWING:**

**STANDING**

- The Board reviewed the history of this matter.
- The Board members each expressed the difficulty they had in deciding this matter.
- The Board reviewed some peculiarities in this matter. This matter had been consolidated with 16-170-SPH which was the Petition for Special Hearing filed by Friends of Lubavitch, Inc. The Board held a hearing in October of 2016. These matters did not conclude at that time. Three additional hearing dates were scheduled by agreement of Counsel. The day before the second hearing date, Counsel for Friends of Lubavitch withdrew their Petition for Special Hearing in 16-170-SPH and withdrew his appearance on behalf of Friends of Lubavitch in this matter. No one appeared on behalf of Friends of Lubavitch at the second hearing date. This matter concluded on that day. Closing Memoranda were requested by the panel and received on February 27, 2017. On that date, Closing Memoranda were received from People’s Counsel for Baltimore County and Mr. Murphy on behalf of the Neighbor/Petitioners. Friends of Lubavitch filed an unsigned letter from Mr. Storzer which threatened that a RLUIPA action would be filed against the County if the Board did not rule in favor of Friends of Lubavitch. The Board members agreed that sending the letter from Mr. Storzer was highly unusual since the letter was unsigned, Mr. Storzer had not

entered his appearance in the case, and Counsel for Friends of Lubavitch had withdrawn the day prior to the second day of the hearing.

- The Board reviewed the evidence and testimony they received. The members discussed that their decision can only be based on what evidence and testimony was presented at the two days of hearing and the closing memoranda. Given that Friends of Lubavitch withdrew from this matter after the first day of hearing, the Board's primary source of information is from the Neighbor/Petitioners. The Board members were sympathetic to the Neighbors/Petitioners.
- The Majority of the Board determined that based on past performance, signage on the property, as well as social media posts, the current and future use of the property appears to be that of a community building which would require that the structures on the property meet the special exception and residential transition area (RTA) buffer regulations required of all non-residential uses in a residential zone. Based on the evidence, the Majority determined that the residential use of the property for the Rabbi and his family appears to be an accessory or secondary use. The Majority determined that the use of the property as a community building is in violation of the Baltimore County Code and Zoning Regulations.
- One member dissented from the Majority. He determined it is best to take a more conservative approach and rule that the residence is a residence and if the property is used in a non-residential way, the Neighbors/Petitioners should pursue a Code Enforcement proceeding.

**FINAL DECISION:** After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed that the use of the property should be strictly residential. The Majority of the Board found that the use until now has not been primarily residential and that continued non-residential use would be in violation of the Baltimore County Code and Zoning Regulations. One Member is dissenting.

**NOTE:** These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

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Sunny Cannington